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HONOURABLE SRI JUSTICE B.PRAKASH RAO
AND
HONOURABLE SRI JUSTICE M.VENKATESWARA REDDY

WRIT PETITION NOs:20188 of 1998 & 5379 of 2000

DATED: 23-01-2007

W.P.No.20188 of 1998:

Between:

1. M/s. Sanghi Textiles & Processors (P) Ltd.,
Rep. By Director, Mr.Sudheer Sanghi and another

..... PETITIONERS

AND

1. Government of Andhra Pradesh, Rep. By Secretary for Revenue (ULC),
Secretariat, Hyderabad and 5 others.

.....RESPONDENTS

W.P.No.5379 of 2000:

Between:

1. Sri Ramsharan Sanghi and another

..... PETITIONERS

AND

1. The District Collector, Hyderabad and 6 others.

.....RESPONDENTS

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COMMON ORDER: (per The Hon'ble Sri Justice B.Prakash Rao)

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Heard Sri P.M. Gopal Rao, learned Senior Counsel appearing for the petitioners and the learned Government Pleader for Revenue (Assignments) appearing on behalf of the respondents in both the writ petitions.

2. Since these two writ petitions almost involve common questions to both sides, they have been taken up together for disposal.

3. In W.P.No.20188 of 1998, the petitioners herein, seek to assail the orders of the second respondent-, who is the competent authority under the Urban Land Ceiling, Hyderabad, in CCE1/5913/76, dated 25-11-1987 treating the land to an extent of 789.28 sq.metres in old R.S.No.129/40 and new T.S.No.12/B, Ward No.12, Block K, Banjara Hills, Shaikpet village, Hyderabad, as vested in the Government, which is in pursuance of the declaration filed by one Askar Ahmad, the contesting respondent No.6 herein, declaring him as surplus holder of 789.28 sq. Mtrs. While admitting the writ petition, this Court granted stay of dispossession.

4. In W.P.No.5379 of 2000, the petitioners seek to assail the orders passed in L.G.C.No.117 of 1995, dated 29-03-2000 in pursuance of allowing the application I.A.No.1013 of 1995 in L.G.C.No.117 of 1995, filed by the petitioners against the respondents herein, who are the

land grabbers, under Section 8 (A) of the A.P. Land Grabbing Act, 1982, on the file of the learned Chairman, Special Court, Hyderabad, seeking eviction in respect of very same land referred to above.

5. A few facts, which are necessary for disposal of these two cases, are that the petitioners herein claimed to be the owners of the land to the extent of 835 sq.yars out of 38 gts. in Survey NO.129/40, Shaikpet village, Hyderabad. The said land originally belongs to one Mohd. Mirza, who has conveyed it to one Ramachandra Reddy on 10th Teer 1342 faisal and in pursuance of which, a mutation was sanctioned on 15-12-1978, which was marked as Ex.A-29, in the land grabbing proceedings. According to the petitioners, the said Ramachandra Reddy executed General Power of Attorney, Ex.A-11, dated 1-12-1987 in favour of one N.Vasantha Rao, who, in turn, to another R.Ganesh Varma under Ex.A-12, dated 25-03-1988. The petitioner No.1 purchased an extent of 435 sq. yards under Ex.A-1, dated 23-05-1994 and whereas the second petitioner purchased another extent of 400 sq. yards under Ex.A-2, dated
23-05-1994. Subsequently, the petitioners obtained permissions from the Municipal Corporation for construction of the house or additions etc., on 21-02-1995,

which have been marked as Exs.A-3 and A-4 respectively. In support of their contention, the petitioners also filed several other documents showing the payment of agricultural tax in Ex.A-5. However, the petitioners were issued notice under Section 7 of the A.P. Land Encroachment Act, on 17-04-1995 in Ex.B-7, and ultimately final orders were passed under Section 6 of the said Act on 24-05-1995, directing the petitioners to vacate the land within 48 hours, which has been marked as Ex.B-8. Subsequently, the petitioners herein have filed L.G.C.No.117/95 before the Special Court under A.P. Land Grabbing (Prohibition) Act on
07-06-95.

6. According to the petitioners herein, the land in question is the one which has been vested in the government and therefore, it belongs to them and whereas the respondents in possession are the land grabbers and therefore, the respondents are liable to be evicted.

7. The main case, as per the version of the petitioners herein, is that one Aksari Ahmad filed declaration as surplus land owner under Section 6 (1) of the Urban Land Ceiling Act, which has been marked as Ex.B-10, dated 13-09-1976. Subsequently, in pursuance of the said declaration, an enquiry was conducted thereon.

Thereafter, considering the preliminary objections etc., a final order was passed on 08-01-88 under the said Act. Prior to the final orders, the Special Officer and competent authority passed orders on 25.11.1987 provisionally declaring Aksari Ahmad as surplus land holder. In pursuance of the said declaration as a surplus land holder, proceedings have been initiated for surrender of the excess land and consequently possession of the land was taken.

8. Learned counsel for the petitioners contended that even though the petitioners purchased the very same land in pursuance of the valid sale deeds dated 23.05.1994 i.e. Exs.A1 and A2, if they had no notice of opportunity whatsoever in nature in the Urban Land Ceiling proceedings, and therefore, none of those proceedings, in any way, find them fault nor would go against them and thus having regard to their independent right, title and interest, the respondents could not have taken possession nor could vest with the Government. Hence, the writ petition.

9. Even in the proceedings before the Special Court, under the A.P. Land Grabbing (Prohibition) Act, the petitioner tried to prove their claim based upon the very same proceedings as referred to above and sought to

ignore the proceedings of the Urban Land Ceiling authority, which have been taken up at the instance of Aksari Ahmed since the petitioners had no notice of opportunity of whatsoever in nature. Therefore, the case of the petitioners is that none of those proceedings would go against them, in any manner, to deny their substantive proprietary right.

10. As per the proceedings passed of the Special Court under the A.P. Land Grabbing (Prohibition) Act, Hyderabad, the special Court did not find the case in favour of the petitioners and having taken note of the entire chequerd events in the proceedings, ultimately, declared that the land was vested with the Government and the petitioners herein have no title to the property and they cannot be declared as landlords. Hence the petitioners filed these two writ petitions assailing both the orders of Urban Land Ceiling and of the Land Grabbing authorities.

11. Having considered the submissions made on either side and also on perusal of the material available on record, it is quite apparent that the petitioners are totally claiming their title in almost parallel way without any consent of whatsoever in respect of the right, title, as claimed by the said claimant viz., Aksar Ahmed.

Admittedly, the petitioners had no notice nor any opportunity of whatsoever in nature in the urban Land Proceedings. In the declaration filed by Aksar Ahmed, ultimately, the proceedings have been reached to the stage of surrender. Though an attempt has been made to show that having regard to the mandatory provisions as contemplated under the said Act and the Rules made there under, failure to give notice to a person in possession under valid title itself would make it as void and can be ignored. We are not prepared to accept any such contention as long as such proceedings are subsisting. Though, in fact, the petitioners are not parties, necessarily, the petitioners had to take appropriate remedies as provided under the urban land ceiling Act. The petitioners cannot seek that the respondents are land grabbers and seek their eviction. However, no proper explanation is forthcoming on behalf of the respondents as to why the petitioners have not been given any such notice and it cannot be said that merely because some proceedings have been initiated at the instance of some other party and having become final, they would not come in any way against the petitioners herein who never had any say in those proceedings.

12. In the circumstances, we are of the opinion, with a view to decide the rights of the parties vis-à-vis the

declarant, namely Aksari Ahmad and also the petitioners herein, that it would be more appropriate and apt to have a proper enquiry in their presence and decide all such questions as to their entitlement both as to the ceiling area of the said declarant and also the independent rights, if any, held by the petitioners, unaffected by any such claim made by the declarant.

13. The main case of the petitioners is that none of the proceedings under the Urban Land Ceiling Act have been served and even the orders passed under Section 8 (3) of the said Act have not been served and therefore, they could not take up any proceedings.

14. In view of the same we are of the view that the respondents can as well serve the copy of the said order, against which the petitioners can prefer a regular appeal as provided under the provisions of the said Act, wherein all such disputes *inter se* between the parties can be aptly decided including the entitlement of the declarant and the surplus area, if any, held by them and also that of the independent rights held by the petitioners herein.

15. In the circumstances, both the writ petitions are allowed. The orders of the learned Chairman, Special Court, in L.G.C. No.117 of 1995, dated 29-03-2000 are set

aside and the matter is remanded to the said Court for fresh consideration to await the decision and keep it pending till the proceedings under the urban land ceiling are disposed of and become final. Further the respondent No.2 in W.P.No.20188 of 1998 is directed to serve the orders passed under Section 8 (3) of Urban Land Ceiling Act in pursuance of the declaration in C.C. E1/5913/76, dated 25-11-1987 to the petitioners, within a period of two weeks from the date of receipt of a copy of this order and the petitioners are at liberty to prefer a regular appeal as provided under Section 33 of the Urban Land Ceiling Act, 1976, within a period of four weeks from the date of service of the orders by the second respondent and the appellate authorities shall dispose of the said appeal on merits and in accordance with law, after giving notice and opportunity to both sides. It is needless to mention that till the decision of the appeal or any further proceedings arising under the Urban Land decision and become final, the proceedings under the learned Chairman, Special Court under the said Act, stands stayed.

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B.PRAKASH RAO, J

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M.VENKATESWARA REDDY, J

23rd January, 2007

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